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10 IN THE UNITED STATES DISTRICT COURT FOR  
11 THE DISTRICT OF OREGON  
12 PORTLAND DIVISION

13 HESSEL ENTERPRISES, INC., an Oregon  
14 corporation,

15 Plaintiff,

16 v.

17 The UNITED STATES OF AMERICAN by  
18 and through the Department of the Treasury,  
19 Internal Revenue Service, STATE OF  
20 OREGON by and through the Department of  
21 Revenue and WASHINGTON COUNTY, a  
political subdivision of the State of Oregon

22 Defendants.  
23

CASE NO. CV '12-0093 BR

DECLARATORY JUDGMENT

(Solely as to Plaintiff's Claims Against the  
State of Oregon and Washington County)  
(Declaratory)

24 It is hereby ADJUDGED AND DECLARED as follows:

- 25 1. Plaintiff Hessel Enterprises, Inc. has priority to the funds that are the subject of this  
26 action ahead of any claims by the State of Oregon, Department of Revenue and  
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28 1 – JUDGMENT (DECLARATORY)

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1 Washington County. As a result,

2 a. The State of Oregon, Department of Revenue does not have claims against  
3 Stacy and Witbeck, Inc., a California corporation, and Kiewit Pacific Co., a  
4 Delaware corporation, doing business as Stacy and Witbeck/Kiewit Pacific  
5 Co., a Joint Venture , the Joint Venture partners individually, its performance  
6 and payment bond sureties, Safeco Insurance Company of America, a  
7 Washington Corporation and Travelers Casualty and Surety Company of  
8 America, a Connecticut corporation, the funds that are the subject of this  
9 action or Plaintiff Hessel Enterprises, Inc for unpaid taxes owed by W&R, and  
10 all such claims shall be and hereby are fully resolved, discharged, dismissed,  
11 released and exonerated as to those entities. Nothing herein shall release or  
12 discharge any liability of W&R to Defendant State of Oregon, Department of  
13 Revenue; and

14 b. Washington County. does not have claims against Stacy and Witbeck, Inc., a  
15 California corporation, and Kiewit Pacific Co., a Delaware corporation, doing  
16 business as Stacy and Witbeck/Kiewit Pacific Co., a Joint Venture , the Joint  
17 Venture partners individually, its performance and payment bond sureties,  
18 Safeco Insurance Company of America, a Washington Corporation and  
19 Travelers Casualty and Surety Company of America, a Connecticut  
20 corporation, the funds that are the subject of this action for unpaid taxes owed  
21 by W&R, and all such claims shall be and hereby are fully resolved,  
22 discharged, dismissed, released and exonerated as to those entities. Nothing  
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2 – JUDGMENT (DECLARATORY)

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herein shall release or discharge any liability of W&R to Defendant  
Washington County.

2. None of the parties to this action shall recover costs, disbursements or fees herein.

3. Pursuant to FRCP 54(b), the Court expressly determines that there is no just reason  
for delay and this constitutes a final judgment as to the claims against the State of  
Oregon and Washington County.

Dated this August 20, 2012.



Honorable Anna J. Brown  
United States District Court Judge

Submitted by /s/John M. Berman, John M. Berman, OSB No. 72024, Attorney for Plaintiff  
Hessel Enterprises, Inc.

It is so stipulated:

/s/ Kristen A. Berberick  
Kristen A. Berberick, OSB No. 082617  
Assistant Attorney General, State of Oregon  
Attorney for State of Oregon

/s/ Brad Anderson  
Brad Anderson, OSB No. 95199  
Senior Assistant County Counsel  
Attorney for Washington County

/s/John M. Berman  
John M. Berman, OSB No. 72024  
Attorney for Hessel Enterprises, Inc.

3 – JUDGMENT (DECLARATORY)

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